IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

Writ Petition No.3383 of 2007

(Shri Rajkumar s/o Sunderlal Rai v. Shikshak Sahakari Bank Ltd., Nagpur, and others)

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Office Notes, Memoranda of Coram, appearances, Court's orders or directions : Court's or Judge's orders and Registrar's orders.

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Shri Nitin Lalwani, Advocate for Petitioner.

CORAM : A.H. Joshi & R.C. Chavan, JJ.
DATE : 27th August, 2007

1. We find that the action taken by the Bank under Section 13 Securitization Act, 2002 attained the finality when the borrowers in Writ Petition No.4516 of 2003 gave consent for disposal of the property. One of the co-owners cannot now wants to stall the transaction. The petitioner has also shown that the amount of sale was recovered and the bank executed the sale-deed on 10-3-2007. The fact that the lodgment of document for sale of property was done later in time, is of no consequence in view of the consent of the borrowers.

2. The petitioner has placed reliance on the letter dated 5-7-2007.

3. We find that it is an intimation to take away the machinery, which had remained on the site, which by itself does not amount to communication of an admission by the Bank to the effect that the

mortgaged property still continues to be in possession of the borrowers.

4. The willingness to deposit a sum of Rs.6 lacs and odd by filing a pursis does not in any manner demonstrate fairness on the part of the petitioner, since debt of total 82 lacs cannot be thereby wiped out, particularly when other debtors-borrowers being unable to pay have consented for the sale.

5. In view of this, no interference is called for in the petition. The petition is, therefore, dismissed.

JUDGE JUDGE

pdl